



1997 SENATE BILL 528

March 24, 1998 - Introduced by Senators BURKE, GROBSCHMIDT and ROESSLER, cosponsored by Representatives BOCK, CARPENTER, DOBYNS, J. LEHMAN and R. YOUNG, by request of Milwaukee County District Attorney. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

1 **AN ACT to repeal** 302.425 (6); **to renumber and amend** 946.425 (1); **to amend**
2 938.51 (4) (intro.), 946.42 (3) (intro.), 946.425 (1m) (a) and 946.425 (1m) (b); and
3 **to create** 946.42 (3m) and 946.425 (1) (a) of the statutes; **relating to:** penalties
4 for failure to report to jail in certain circumstances and for escapes from home
5 detention programs.

Analysis by the Legislative Reference Bureau

This bill changes current penalties for failure to report to jail in certain circumstances and for escapes from home detention programs.

Failure to report to jail

Current law provides penalties for failing to report to jail to begin serving a sentence. The penalties vary depending on the circumstances of the case. The penalties affected by this bill are as follows:

1. Currently, a court may sentence a person to serve a series of periods in jail instead of a continuous sentence. These period may not be less than 48 hours nor more than 3 days for each period. If a person who has been sentenced to a series of periods in jail fails to report to jail as required by the sentence, the person may be fined not more than \$10,000 or imprisoned for not more than 5 years or both. This bill changes this penalty if the series of periods in jail were imposed for a misdemeanor conviction. Under the bill, a person who fails to report to jail to serve a series of periods in jail for a misdemeanor conviction may be fined not more than

SENATE BILL 528

\$10,000 or imprisoned for not more than 9 months or both. If a person fails to report to jail to serve a series of periods of jail imposed for a felony conviction, the penalty provided under current law applies.

2. Currently, a court may under some circumstances delay the date on which a person must begin serving a jail sentence. If a person fails to report to jail as required after a court delays the starting date of a sentence, the penalty the person faces will depend on the length of the sentence. If the sentence is less than 10 days in jail, the person may be fined not more \$10,000 or imprisoned for not more than 9 months or both. If the sentence is 10 or more days in jail, the person may be fined not more \$10,000 or imprisoned for not more than 5 years or both. This bill provides that the penalty depends not on the length of the sentence but on whether the sentence was imposed for a misdemeanor or for a felony. Thus, under the bill, if the sentence was imposed for a misdemeanor, the person may be fined not more \$10,000 or imprisoned for not more than 9 months or both. If the sentence was imposed for a felony, the person may be fined not more \$10,000 or imprisoned for not more than 5 years or both.

Escape from a home detention program

Under current law, a county sheriff or a superintendent of a house of correction may place a jail prisoner who has been arrested for, charged with, convicted of or sentenced for a crime into a home detention program. In addition, the department of corrections (DOC) or a county department of human or social services (county department) may place a child who is in its custody or under its supervision into a home detention program. Under a home detention program, the prisoner or child is detained at his or her residence or other designated place and is monitored by an electronic monitoring system. The sheriff or superintendent or, in the case of a child, DOC or the county department must establish reasonable terms of detention. If a person placed in a home detention program intentionally fails to remain within the limits of his or her detention or to return to his or her place of detention, the person may be fined not more than \$10,000 or imprisoned for not more than 5 years or both, except that if the person is a child who is not waived into adult court, he or she would instead be subject to proceedings in a court authorized to exercise jurisdiction under the juvenile justice code.

This bill changes the penalty for escaping from a home detention program if the person is in the home detention program after being arrested for, charged with, convicted of or sentenced for a misdemeanor. Under the bill, a person who escapes from a home detention program after being arrested for, charged with, convicted of or sentenced for a misdemeanor may be fined not more than \$10,000 or imprisoned for not more than 9 months or both. If a person escapes from a home detention program after being arrested for, charged with, convicted of or sentenced for a felony, the penalty provided under current law applies. As under current law, if the person who escapes from home detention is a child who is not waived into adult court, he or

SENATE BILL 528

she would be subject to proceedings in a court authorized to exercise jurisdiction under the juvenile justice code.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 302.425 (6) of the statutes is repealed.

2 **SECTION 2.** 938.51 (4) (intro.) of the statutes is amended to read:

3 938.51 (4) (intro.) If a juvenile escapes in violation of s. 946.42 (3) or (3m), as
4 soon as possible after the department or county department having supervision over
5 the juvenile discovers that escape, that department or county department shall
6 make a reasonable effort to notify by telephone all of the following persons:

7 **SECTION 3.** 946.42 (3) (intro.) of the statutes is amended to read:

8 946.42 (3) (intro.) ~~A~~ Except as provided in sub. (3m), a person in custody who
9 intentionally escapes from custody under any of the following circumstances is guilty
10 of a Class D felony:

11 **SECTION 4.** 946.42 (3m) of the statutes is created to read:

12 946.42 (3m) A prisoner in a home detention program under s. 302.425 who
13 intentionally fails to remain within the limits of his or her detention or to return to
14 his or her place of detention, as specified in the terms of detention under s. 302.425
15 (3), is guilty of:

16 (a) A Class A misdemeanor, if the person has been arrested for, charged with,
17 convicted of or sentenced for a misdemeanor.

18 (b) A Class D felony, if the person has been arrested for, charged with, convicted
19 of or sentenced for a felony.

20 **SECTION 5.** 946.425 (1) of the statutes is renumbered 946.425 (1) (intro.) and
21 amended to read:

